

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JAMES W. BALLINGER,
Plaintiff,
vs.

MARK YURICK, *et al.*,
Defendants.

Case No. 1:10-cv-857
Beckwith, J.
Litkovitz, M.J.

**REPORT AND
RECOMMENDATION**

Plaintiff brings this action pro se against various defendants claiming a denial of his rights. This matter is before the Court on a motion to dismiss filed by defendants Warren County Humane Association, Warren County Humane Association Director Mari Lee Schwarzwalder, Warren County Dog Warden and Warren County Deputy Dog Warden (Warren County defendants) (Doc. 17), to which plaintiff has not responded.

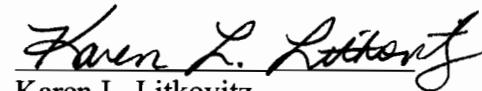
On December 13, 2010, plaintiff filed a complaint and an amended complaint against the Warren County defendants and the City of Lebanon, Matt Graeber and Mark Yurick. (Docs. 4, 5). Defendants City of Lebanon, Graeber and Yurick filed a motion to dismiss on January 4, 2011 (Doc. 9), to which plaintiff responded. (Doc. 12). The Court granted the motion to dismiss by Order dated March 28, 2011. (Doc. 22). The Warren County defendants filed their motion to dismiss on February 25, 2011. (Doc. 17). On March 4, 2011, the Court issued a notice to plaintiff advising him that his failure to file a memorandum in response to the motion within 21 days from the date of service may warrant dismissal of the case pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. (Doc. 19). On March 15, 2011, plaintiff filed a motion for extension of time to respond to the Warren County defendants' motion to dismiss. (Doc. 21). The Court

granted the motion by Order dated May 12, 2011, and allowed plaintiff an additional thirty days from the filing date of the Order to file a response to the motion to dismiss. (Doc. 23).

To date, plaintiff has failed to file a response to the Warren County defendants' motion to dismiss. Plaintiff's failure to respond to the motion to dismiss, after being warned that failure to do so could result in dismissal of the case, warrants dismissal of his claims against the Warren County defendants pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. *See Jourdan v. Jabe*, 951 F.2d 108, 109-10 (6th Cir. 1991). District courts have this power to dismiss civil actions for want of prosecution to "manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). *See also Jourdan*, 951 F.2d at 109.

IT IS THEREFORE RECOMMENDED THAT plaintiff's claims against defendants Warren County Humane Association, Warren County Humane Association Director Mari Lee Schwarzwalder, Warren County Dog Warden and Warren County Deputy Dog Warden be **DISMISSED** with prejudice for lack of prosecution and this matter be terminated on the docket of the Court.

Date: 7/7/2011


Karen L. Litkovitz
United States Magistrate Judge

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NOTICE

Pursuant to Fed. R. Civ. P. 72(b), **WITHIN 14 DAYS** after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations. This period may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring on the record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon, or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections **WITHIN 14 DAYS** after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

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